ARNOLD SCHWARZENEGGER, GOVERNOR

OFFICE OF ADMINISTRATIVE LAW

California Regulatory Notice Register

REGISTER 2009, NO. 43–Z PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW OCTOBER 23, 2009

PROPOSED ACTION ON REGULATIONS

GENERAL PUBLIC INTEREST

(Continued on next page)

Time-Dated Material

DECISION NOT TO PROCEED

OAL REGULATORY DETERMINATION

DISAPPROVAL DECISION

SUMMARY OF REGULATORY ACTIONS

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Barclays, a subsidiary of West, a Thomson Reuters Business, and is offered by subscription for $205.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. "Periodicals Postage Paid in Saint Paul, MN." **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Barclays, a subsidiary of West, a Thomson Reuters Business, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at **http://www.oal.ca.gov.**

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson Reuters.

TITLE 2. CALIFORNIA STATE LIBRARY

NOTICE OF INTENTION TO AMEND THE CONFLICT–OF–INTEREST CODE OF THE CALIFORNIA STATE LIBRARY

NOTICE IS HEREBY GIVEN that the California State Library, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict–of–Interest Code. The purposes of these amendments are to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The California State Library (Library) proposes to amend its Conflict–of–Interest Code (Code) to include employee positions that involve the making and participating in the making of decisions that may foreseeably have a material effect on any financial interests, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment is necessary because it makes technical changes to the Code to reflect the current organizational structure of the Library as follows:

In the Administrative Services Bureau, the Associate Information Systems Analyst classification is added and the Associate Personnel Analyst classification is deleted. In the Information Technology Bureau, the Career Executive Assignment II and the Systems Software Specialist II classifications are added. In the Library Development Services Bureau, the Staff Counsel IV and the Senior Librarian classifications are deleted. In the State Library Services Bureau, the Senior Librarian classification is deleted. In the California Research Bureau, the Staff Counsel IV classification is added, and the Senior Librarian classification is deleted.

In addition to several board members and designated employees' statements of economic interests being required to be submitted to the Fair Political Practices commission (FPPC) under the current code, the amendment further requires the statements of economic interests of the Deputy State Librarian and the California Research Bureau Director to be submitted to the FPPC upon receipt.

Copies of the amended code are available and may be requested from the Contract Person set forth below in the last paragraph of this notice.

Any interested persons may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than December 7, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth in this notice.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than November 23, 2009, by contacting the Contact Person set forth in this notice.

The California State Library has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth in this notice.

The California State Library has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no cost or savings to any state agency.
3. Impose no cost on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary cost or savings imposed on local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the California State Library must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Victor Pong, Filing Officer
Library and Courts Building II
900 N Street, Room 438
Sacramento, California 95814
Phone: (916) 651–0983
Fax: (916) 651–0979
Email: ypong@library.ca.gov

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE: OFFICE OF STATE TREASURER

ADOPTION

MULTI COUNTY: TWIN RIVERS UNIFIED SCHOOL DISTRICT

A written comment period has been established commencing on **October 23, 2009** and closing on **December 7th, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45–day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above–referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re–submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **December 7th, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re–submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

NOTICE OF PROPOSED REGULATORY ACTION
Tactical Medicine Training Course Requirements and Course Content
Regulation 1084

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code § 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by December 7, 2009, at 5:00 p.m.

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227–5271 or by letter to the:

Commission on POST
Attn: Paul Cappitelli, Executive Director
1601 Alhambra Boulevard
Sacramento, CA 95816–7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammatical changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code § 13503 (authority of the Commission on POST) and Penal Code § 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At its July 2009 meeting, the Commission approved the proposal to amend Regulation 1084, subject to successful completion of the rulemaking process.

The proposed amendments to Regulation 1084 — Standardized POST Training Curriculum create new subsections (b) and (c). Regulation 1084 establishes the minimum required topics and the minimum hours for specific, non–mandated training courses. Training courses identified in Regulation 1084 may exceed the proposed topics and hours.

POST certified the 80–hour Tactical Medicine Course to the Palm Springs Police Department and the International School of Tactical Medicine (ISTM) in 2005. At that time, there were no established training standards for tactical medicine personnel statewide and this course was one of two courses nationwide that provided this type of specialized training.

The 80–hour Tactical Medicine Course consists of Module A and Module B. This course is POST–certified and federally approved by the Department of Homeland Security (DHS). It consists of a combination of standardized tactical and medical topics that have been developed with a collaborative effort by POST and the California Emergency Medical Services Authority (EMSA).

The 40–hour Tactical Medicine Course was developed as an alternative course for medical support personnel who have already successfully completed the POST–mandated 80–hour Basic SWAT course. The alternative course consists solely of medical topics because trainees have already completed mandated tactical training.

The proposed amendments to Regulation 1084 include Subsection (b) that identifies and establishes the required topics for the 80–hour Tactical Medicine Course and consists of 47 topics identified as (1) through (47). Subsection (c) identifies and establishes the required topics for the 40–hour alternative Tactical Medicine Course and consists of 24 topics identified as (1) through (24).

Local Mandate

This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with § 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies

POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses

The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by Government Code § 11342.610 because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses

The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs and will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs

None

Alternatives

The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as, and less burdensome to, affected private persons than the proposed action.

Contact Persons

Please direct inquiries or comments about the proposed action to Patti Kaida, Commission on POST, 1601 Alhambra Boulevard, Sacramento, CA 95816–7083, by email at Patti.Kaida@post.ca.gov, by telephone at (916) 227–4847, or by fax at (916) 227–5271. Kenneth Whitman is the contact for inquiries on the substance of the proposed revisions. Mr. Whitman is available by email at Ken.Whitman@post.ca.gov, by telephone at (916) 227–5561, or by fax at (916) 227–5271.

Text of Proposal

Individuals may request copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp.

Availability and Location of the Rulemaking File and the Final Statement of Reasons

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) name above.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 423.00, in Chapter 1, Division 1, Article 6, of Title 13 in the California Code of Regulations to identify the annual adjustment of specified fees for 2010.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m. on December 7, 2009, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 12814.5, 14900, 14900.1 and 14901.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 1678 has required the department to annually review and adjust a variety of department fees since January 1, 2005. The fees are to be adjusted in an amount equal to the increase in the California Consumer Price Index for the prior year as calculated by the Department of Finance. A fee would only be increased when the calculated amount equals or is greater than $0.50, rounded to the next highest whole dollar.

The department proposes to amend Section 423.00 to identify the Vehicle Code sections that authorize each fee identified in Vehicle Code section 1678 that is proposed to be increased, the dates the fee increases are effective and the amount of each adjusted fee. These fees would become effective January 1, 2010.

DOCUMENTS INCORPORATED BY REFERENCE

There are no documents to be incorporated by reference.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non–Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The department is required by statute to adjust specific fees based on the California Consumer Price Index for the prior year, as calculated by the Department of Finance. Five (5) different fees are proposed to be increased by one dollar.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create nor eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses because the proposed regulatory action identifies specific fees that will be increased based on the increase in the California Consumer Price Index for the prior year. This regulation proposes to increase by one dollar ($1) five (5) fees specified in statute.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre–notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Maria Grijalva, Department of Motor Vehicles, P.O. Box 932382, Mail Station C–244, Sacramento, California 94232–3820; telephone number (916) 657–9001, or mgrijalva@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Cathy Sowell, at (916)

657–7970 or e–mail csowell@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657–1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above–cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons and Express Terms) may be accessed at *www.dmv.ca.gov/about/lad/regactions.htm*.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PROPOSED REGULATION FOR THE MANAGEMENT OF HIGH GLOBAL WARMING POTENTIAL REFRIGERANTS FOR STATIONARY SOURCES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of a proposed regulation for the management of high global warming potential refrigerants for stationary sources.

DATE: December 9, 2009
TIME: 9:00 a.m.
PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two–day meeting of the Board, which will commence at 9:00 a.m. on December 9, 2009, and may continue at 8:30 a.m., on December 10, 2009. Please consult the agenda for the meeting, which will be available at least ten days before December 9, 2009, to determine the day on which this item will be considered.

If you require special accommodations or language needs, please contact the Clerk of the Board at (916) 322–5594 or by facsimile at (916) 322–3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new subarticle 6, sections 95380, 95381, 95382, 95383, 95384, 95385, 95386, 95387, 95388, 95389, 95390, 95391, 95392, 95393, 95394, 95395, 95396, and 95397 of subchapter 10, article 4, title 17, California Code of Regulations (CCR).

Background:

The California Global Warming Solutions Act of 2006 (Assembly Bill 32 (AB 32); Stats. 2006, Chapter 488) created a comprehensive, multi–year program to reduce greenhouse gas (GHG) emissions in California. ARB staff is proposing a regulation that would reduce GHG emissions associated with stationary, non–residential refrigeration equipment and resulting from the installation and servicing of refrigeration and air–conditioning (R/AC) appliances.

While not a discrete sector of the California economy, the high–GWP GHG sector consists of a broad range of sources that emit gases that have hundreds to thousands of times the climate impact as carbon dioxide (CO_2). High–GWP refrigerants serve an important purpose as refrigerants in stationary heating, ventilation, and air conditioning (HVAC), mobile vehicle air conditioning (MVAC), and refrigeration. High–GWP gases are also used as foam–blowing agents, in electrical transmission, as fire suppressants, in consumer products, and in the semiconductor industry.

For the purposes of the proposed regulation, high–GWP refrigerants include: 1) any refrigerant with a global warming potential value equal to or greater than 150, or 2) any refrigerant that is an ozone depleting substance (ODS). High–GWP refrigerants include chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC), hydrofluorocarbons (HFC) and perfluorocarbons (PFC). CFC and HCFC are classes of ODS. Hydrofluorocarbon refrigerants are non–ozone depleting substitutes for ODS refrigerants. PFC are also non–ozone depleting compounds and may be in use in industrial refrigeration applications. Generally, all of these classes of chemicals have very high global warming potentials, with potencies in the range of 500 to 10,000 times greater than that of CO_2.

The proposed regulation focuses on the largest source of emissions from the high–GWP sector — large commercial refrigeration systems, which have extensive GHG emission potential. Refrigeration systems are a primary source of emissions from the stationary source high–GWP GHG sector; the United States Environmental Protection Agency (U.S. EPA) estimates that 37 percent of the stationary refrigeration and air–conditioning related emissions of high–GWP gases are from stationary, large commercial refrigeration systems.

Of all refrigeration systems using more than 50 pounds of a high–GWP refrigerant that were reported to the South Coast Air Quality Management District (SCAQMD) under their Rule 1415, on average, 29 percent leak annually. These leaking refrigeration systems lost, on average, 65 percent of their refrigerant charge annually. In many cases owners and operators of refrigeration systems can benefit financially from using the refrigerant best management practices required by the proposed regulation, because these systems would ultimately consume less refrigerant.

As a result of the Montreal Protocol's phaseout of ODS, these gases have typically been replaced with ODS substitutes such as hydrofluorocarbons (HFC) and perfluorocarbons (PFC). For example, HFC blends with higher GWPs are currently being used to replace HCFC–22 as a refrigerant. While ODS have negative impacts for both climate change and stratospheric ozone, ODS substitutes do not deplete the ozone but are typically potent GHG.

The majority of ODS substitutes are Kyoto gases and are thus included in the California AB 32 GHG inventory. Emissions of Kyoto Protocol gases are increasing as ODS are phased out and are replaced by ODS substitutes. In total, the high–GWP sector, based on an average 2002–2004 emissions inventory, is estimated to represent approximately three percent of the statewide anthropogenic GHG inventory. However, the sector is growing rapidly primarily due to the increased use of ODS substitutes. Under a business–as–usual scenario high–GWP gases are expected to be the fastest growing GHG sector in the California GHG inventory and are anticipated to more than triple to reach over 46 $MMTCO_2E$ by 2020 — 8 percent of the total estimated California GHG inventory.

The low cost of many high–GWP refrigerants, as well as a lack of incentives for emission control, have resulted in the common practice of re–charging leaky, poorly designed, and/or poorly maintained systems without attempting repair. Although ODS refrigerant prices are expected to rise as they are phased out of production, currently low costs and the lack of enforced regulations limiting releases have led to low recovery and reclamation rates for many high–GWP refrigerants. As a result, refrigerant venting occurs during maintenance or end–of–life disposal. In sum, the Refrigerant Management Program's leak detection and monitoring, leak repair, and retrofit and retirement components offer an integrated strategy for achieving significant reductions from the commercial refrigeration sector.

DESCRIPTION OF THE PROPOSED REGULATORY ACTION

The proposed regulation is designed to: 1) reduce emissions of high–GWP refrigerants from stationary, non–residential refrigeration equipment, 2) reduce emissions resulting from the installation and servicing of refrigeration and air–conditioning (R/AC) appliances using high–GWP refrigerants, and 3) verify emission reductions.

The proposed regulation applies to: 1) any person who owns or operates a stationary refrigeration system that uses more than 50 pounds of a high–GWP refrigerant; 2) any person who installs, repairs, maintains, services, replaces, recycles, or disposes of a R/AC appliance; and 3) any person who distributes or reclaims high–GWP refrigerants.

The proposed regulation specifies: 1) stationary refrigeration refrigerant management practices, 2) R/AC appliance required service practices, and 3) refrigerant distributor, wholesaler, and reclaimer requirements.

Stationary Refrigeration Refrigerant Management Practices

The proposed stationary refrigeration management practices apply to any refrigeration system that uses more than 50 pounds of a high–GWP refrigerant. The applicable requirements vary based on the amount of high–GWP refrigerant used by a refrigeration system, known as the refrigerant charge size. Refrigeration systems are categorized based on the refrigerant charge size as a large refrigeration system, medium refrigeration system, or small refrigeration system.

All facilities with a refrigeration system with a refrigerant charge size greater than 50 pounds will be required to register, with the initial registration due date based on the refrigeration system with the largest refrigerant charge size in operation at a facility. Facilities with a refrigeration system in operation with a refrigerant charge of 200 pounds or greater will be also required to pay an annual implementation fee at the time of registration, which is also based on the refrigeration system with the largest refrigerant charge size in operation at a facility.

All owners or operators of facilities with a refrigeration system(s) in operation with a refrigerant charge size greater than 50 pounds will be required to comply with refrigerant leak detection and monitoring, refrigerant leak repair, and refrigeration system retrofit or retirement requirements.

Under the proposed regulation, owners or operators of facilities with a refrigeration system(s) in operation with a refrigerant charge size greater than 50 pounds will be subject to recordkeeping and reporting requirements. Requirements include maintaining records on refrigeration system service and leak repair and refrigerant purchase and use. Owners or operators of facilities with a refrigeration system(s) in operation with a refrigerant charge of 200 pounds or greater will be required to annually report this information to ARB.

Refrigeration and Air–Conditioning Appliance Required Service Practices

The proposed regulation includes required service practices that apply to any person installing, maintaining, servicing, repairing, modifying, or disposing of a R/AC appliance that uses a high–GWP refrigerant.

The majority of required service practices are based on rules promulgated by the United States Environmental Protection Agency (U.S. EPA) under the federal Clean Air Act (CAA). These rules forbid intentional venting and require refrigerant recovery using approved equipment and procedures and refrigerant evacuation. These existing federal requirements currently apply only to ODS refrigerants, except for the prohibition on intentional venting, which is applicable to ODS substitute refrigerants. The proposed regulation would extend these requirements to all high–GWP refrigerants. Required service practices not based on existing rules promulgated by U.S. EPA include restrictions on adding refrigerant to a R/AC appliance, use of approved refrigerants, and refrigerant recovery from refrigerant cylinders.

Refrigerant Distributor, Wholesaler, and Reclaimer Requirements

The proposed regulation includes prohibitions that are based on rules promulgated by U.S. EPA that apply to refrigerant distributors, wholesalers, and reclaimers. These existing federal requirements currently apply only to ODS refrigerants; the proposed regulation would extend the requirements to all high–GWP refrigerants. Prohibitions not based on existing rules promulgated by U.S. EPA include sale of only approved refrigerants and refrigerant recovery from refrigerant cylinders.

Under the proposed regulation, refrigerant distributors, wholesalers, and reclaimers will be subject to recordkeeping and reporting requirements. Requirements include maintaining records of high–GWP refrigerant purchases, sales, shipments, and reclamation for refrigerant reclaimers. Refrigerant distributors, wholesalers, and reclaimers will also be required to annually report this information to ARB.

EMISSION REDUCTIONS

Staff estimates that implementation of the proposed regulation would reduce emissions of Kyoto gases by 7.1 million metric tonnes of carbon dioxide equivalent ($MMTCO_2E$) annually by 2020. In addition, this regulation is anticipated to reduce emissions of ozone–depleting substances by an additional 0.9 $MMTCO_2E$ annually by 2020, as compared to business as usual.

COMPARABLE FEDERAL REGULATIONS

A primary goal in the development of the proposed regulation is to ensure that its requirements are consistent with existing rules applicable to ODS refrigerants in U.S. EPA regulations (Code of Federal Regulations, Title 40, Part 82, Subpart F) and the SCAQMD regulations (Rule 1415). The proposed regulation builds on the existing rules and expands their applicability to include all high–GWP refrigerants.

The management of refrigerants is currently covered by rules promulgated by U.S. EPA under the federal CAA. Section 608 of the CAA includes requirements applicable to refrigerant use during stationary heating, ventilation, and air conditioning (HVAC) servicing, while Section 609 includes requirements specific to refrigerant use during mobile vehicle air conditioning (MVAC) servicing. These sections were included in the CAA in order to address stratospheric ozone depletion from ODS.

Section 608 of the CAA specifies required service practices that maximize the recycling of ODS during the service of stationary HVAC systems. Section 608 includes requirements specific to venting, approved equipment, technician training and certification, recordkeeping, certification requirements, and sales restrictions.

Section 609 of the CAA is similar to Section 608, but is specific to management of refrigerants while main-

taining, servicing, repairing, or disposing of MVAC systems. Section 609 includes requirements specific to venting, evacuation, reclamation, equipment certification, refrigerant leaks, technician certification, sales restrictions, certification by owners of recycling and recovery equipment, reclaimer certification, safe disposal, and recordkeeping.

Final rules promulgated by U.S. EPA under section 608 of the CAA were published on May 14, 1993 (58 Federal Register (FR) 28660) and establish a recycling program for ozone–depleting refrigerants recovered during the servicing and maintenance of R/AC appliances. Together with the prohibition on venting during the maintenance, service, repair, and disposal of class I and class II ODS (January 22, 1991; 56 FR 2420), these rules were intended to substantially reduce the production and emissions of ozone–depleting refrigerants. The final rule on venting and sales of refrigerant substitutes (March 12, 2004; 69 FR 11946) sustained the prohibition against venting HFC and PFC refrigerants.

Federal rules specific to refrigerant cylinder management are based on the CAA and U.S. Department of Transportation (DOT) cylinder specifications. The CAA prohibits the sale of ODS refrigerants, except to a U.S. EPA certified technician or the employer of a certified technician. DOT regulations applicable to refrigerant management include: 1) Title 49: Transportation, Part 173, Shippers, General Requirements of Shipments and Packaging; and 2) Title 49, Transportation, Part 178, Specifications for Packagings, Subpart C, Specifications for Cylinders. These regulations outline requirements specific to cylinder type, size, service pressure, test pressure, size limitation, maximum water capacity, pressure of contents, material (steel or aluminum), and markings.

Similar to U.S. EPA's requirements under Section 608 of the CAA, the SCAQMD has adopted Rule 1415 which is aimed at reducing emissions of ozone–depleting refrigerants from stationary R/AC systems. The Rule 1415 requires any person within SCAQMD's jurisdiction, who owns or operates a refrigeration or air–conditioning system, to minimize refrigerant emissions. A refrigeration system is defined for the purposes of the rule as any non–vehicular equipment used for cooling or freezing which holds more than 50 pounds of any combination of Class I and/or Class II refrigerant, including, but not limited to, refrigerators, freezers, or air–conditioning equipment or systems. Equipment found to be leaking any ODS refrigerant must be repaired within 14 days.

Rule 1415 requires biennial reporting from owners and operators of stationary R/AC systems holding more than 50 pounds of an ozone–depleting refrigerant. Specific information to be collected includes: number of R/AC systems in operation; type of refrigerant in each refrigeration system; amount of refrigerant in each R/AC system; date of the last annual audit or maintenance performed for each R/AC system; and the amount of additional refrigerant charged to each R/AC system every year.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report — Initial Statement of Reasons (ISOR) — for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled "Initial Statement of Reasons for Adoption of a Proposed Regulation for the Management of High Global Warming Potential Refrigerants for Stationary Sources." The Executive Summary provides an overview of the proposed regulation.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322–2990, at least 45 days prior to the scheduled hearing on December 9, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons identified in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons: Pamela Gupta, Manager of the Greenhouse Gas Reduction Strategy Section, at (916) 327–0604 or Chuck Seidler, Air Pollution Specialist, at (916) 327–8493.

Further, the agency representative and designated back–up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322–4011, or Amy Whiting, Regulations Coordinator, (916) 322–6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at www.arb.ca.gov/regact/2009/gwprmp09/gwprmp09.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred in reasonable compliance with the proposed regulatory action are presented below.

The ARB's Executive Officer has determined that the proposed regulatory action would impose a mandate on State and local agencies and would create costs, as defined in Government Code section 11346.5(a)(6), to state and local agencies. Any such costs should be minimal, and affected State and local agencies should be able to absorb these costs within existing budgets and resources. Because the requirements imposed by the regulation are generally applicable to all entities subject to the regulation, the proposed regulatory action imposes no costs on local agencies that are required to be reimbursed by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, and does not impose a mandate on local agencies that is required to be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution.

The Executive Officer has also determined that the proposed regulation will not create costs or savings in federal funding to the State, costs or mandate to any school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code. The proposed regulation may create non–discretionary savings for some State or local agencies because reduced refrigerant leaks will translate into less refrigerant being purchased, resulting in an overall cost savings.

The Executive Officer has determined that the proposed regulatory action would create a total potential cost impact to the ARB (including cost of agreements with local air districts to help enforce the regulation) of $ 0.4 million starting in fiscal year 2010–11, an additional $0.7 million starting in fiscal year 2012–13, and an additional $1.2 million starting in fiscal year 2014–15 to reach a total of $2.3 million in fiscal year 2014–15 and each year thereafter. The annual implementation fees specified in the regulation are set to ensure that anticipated expenses equal anticipated revenue derived from the fees.

The costs of the program are associated with new ARB staff positions as well as funds for fee–for–service agreements with local air districts for administration and enforcement activities. ARB staff has conducted a preliminary survey of air districts to determine how each air district is likely to participate in the Refrigerant Management Program. Air districts representing approximately 94 percent of the State's population responded that they are likely to enforce the regulation within their jurisdictions.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses and has estimated that this regulation would primarily affect approximately 26,000 facilities that use stationary refrigeration systems. Approximately 12,000 additional businesses may be impacted in the industries of refrigeration and air–conditioning maintenance and service, and refrigerant distribution, wholesale, and reclamation.

It is estimated that the proposed regulation will impact the affected facilities at a total gross cost, on average, of $49.0 million per year, based on estimated 2020 costs in terms of 2008 dollars. However, cost savings are expected to be $68.1 million per year for a net total savings of $19.1 million per year. These savings would result because reduced leaks translate into less refrigerant being purchased, and the reduced refrigerant cost would more than offset the cost of compliance. Estimated average cost to refrigeration and air–conditioning maintenance and service contractors and refrigerant distributors, wholesalers, and reclaimers is anticipated to be a total of $0.2 million per year.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not negatively affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The proposed regulation requires that all refrigerant leak repairs be performed by a U.S. EPA certified technician. Industry stakeholders have stated that there is currently a limited number of certified technicians, so the proposed regulation may have a positive business creation impact by creating greater demand for businesses and employment that requires U.S. EPA certified technicians.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regula-

tion which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting and may be submitted by postal mail or by electronic submittal before the meeting. To be considered by the Board, written comments, not physically submitted at the meeting, must be received **no later than 12:00 noon, December 8, 2009**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: http://www/arb/ca/gov/lispub/comm/bclist.php

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 38501, 38510, 38560, 38562, 38563, 38580, 38597, 39600, 39601, and 41511. This action is proposed to implement, interpret, and make specific sections 38501, 38505, 38510, 38560, 38562, 38563, 38597, 38580, 39600, 39601, and 41511.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non–substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322–2990.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE REGULATION FOR LIMITING OZONE EMISSIONS FROM INDOOR AIR CLEANING DEVICES

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider amendments to the indoor air cleaner regulation adopted by the Board in September 2007, including an extension of the compliance date for the labeling requirements and refinements to the ozone emissions test method.

DATE: December 9, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two–day meeting of the Board, which will commence at 9:00 a.m., Decem-

ber 9, 2009 and may continue at 8:30 a.m., December 10, 2009. This item may not be considered until December 10, 2009. Please consult the agenda for the hearing, which will be available at least 10 days before December 9, 2009, to determine the day on which this item will be considered.

If you require special accommodation or need this document in an alternate format or language, please contact the Clerk of the Board at (916) 322–5594 or by facsimile at (916) 322–3928 as soon as possible, but no later than 10 business days before the scheduled Board meeting. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of amendments to California Code of Regulations, title 17, sections 94801, 94804, 94805, and 94806. Two Certification Requirement Decisions (CRD) issued by Underwriters Laboratories, Inc. (UL) in 2009, entitled Chamber Setup (issued July 8, 2009) and Definition of Steady State at Hours 7–8 (issued July 9, 2009) for the American National Standards Institute (ANSI)/UL Standard 867, will be incorporated by reference. A third CRD entitled Filter Test Iterations, soon to be issued by UL, will also be incorporated by reference.

Background

Some air cleaning devices generate large quantities of ozone, either purposely or as a byproduct of their design, and have been shown to produce unhealthful ozone concentrations that exceed the health–based state and federal ambient air quality standards for ozone. Exposure to such elevated levels of ozone is a public health concern. Ozone is highly reactive and can damage the lungs and airways. It inflames and irritates respiratory tissues, and can worsen asthma symptoms, including coughing, chest tightness and impaired breathing. Elevated exposures have the potential to induce permanent lung damage, and chronic ozone exposure can increase the risk of premature death in persons in poor health. Ozone can also damage plants, fabrics and building materials such as paint, walls, and flooring. Ozone has been recognized and regulated as an outdoor air pollutant for many years.

Because of concern for public health, Assembly Bill 2276 was signed into law in 2006 to enact Health and Safety Code sections 41985–41986, which directed ARB to regulate ozone emissions from portable air cleaners sold in California that are used in occupied spaces, by December 31, 2008.

Summary of Existing Regulation: On September 27, 2007, the Board approved a regulation, which became effective on October 18, 2008, that requires all portable indoor air cleaners sold in California after October 18, 2010 to be tested, certified, and labeled as complying with an ozone emission concentration limit of 0.050 parts per million. The air cleaners must also meet applicable electrical safety requirements. Electronic air cleaners must be tested according to the ANSI/UL Standard 867 for their ozone emissions and electrical safety. Testing for ANSI/UL Standard 867 must be conducted by a Nationally Recognized Testing Laboratory (NRTL) recognized by the United States Occupational Health and Safety Administration and approved by ARB to conduct the ozone emissions test specified in Section 37 of ANSI/UL 867. Air cleaners that use only filter materials to remove contaminants, called "mechanical filtration only" air cleaners, must be tested under ANSI/UL Standard 507 for their electrical safety; because they are known to emit little or no ozone, this type of air cleaner is not required to undergo ozone emissions testing.

Under the regulation, manufacturers must also notify all of their known distributors, retailers, and sellers about the regulation, provide them with a copy of the regulation, and send documentation of this notification and contact information for their distributors, retailers, and sellers to ARB, by October 18, 2009. Finally, manufacturers, distributors, retailers, sellers, and testing laboratories must maintain production, quality control, sales, and testing records for at least three years, and make them available to ARB upon request.

Testing and Certification Status: Air cleaner testing for ozone emissions for the regulation is available from two testing laboratories, UL and Intertek Testing Services (Intertek). The UL testing facility has been available for testing since the effective date of the regulation in October 2008, the Intertek facility was approved to provide testing on July 2, 2009. As of September 30, 2009, five manufacturers have applied and received certification for a total of 94 air cleaner models. Thirteen models required ozone testing and 81 were "mechanical filtration only" devices that did not require ozone testing. These totals do not include models currently in the certification review process.

The staff currently estimates that about 70 to 109 air cleaner models still need to obtain ozone testing by the compliance date. This estimate is lower than the original estimate of 136 models discussed in the 2007 staff report, and accounts for the models already tested, a reduced estimate for ozone generator models that are anticipated to be re–designed and certified, and a reduction in the number of manufacturers active in the California market.

Changes Needed: Early in 2009, manufacturers of air cleaners expressed concern regarding their ability to meet the compliance dates in the regulation due to the

delay in the availability of a second laboratory to conduct the ozone emissions test and higher than expected testing costs. Manufacturers also indicated their concern that the slowdown in the economy has resulted in an increased number of unsold air cleaners in the distribution and retail inventories, which poses additional challenges in meeting the regulation's requirements for labeling. Accordingly, manufacturers requested an extension of the October 18, 2010 compliance date. To hear and consider concerns from all interested parties, ARB staff conducted a public workshop on June 12, 2009 to discuss the status of implementation of the regulation and possible amendments to the regulation, and to obtain comments. The workshop was followed by a three week written comment period, during which comments were received from nine individuals or organizations.

In July, 2009, the second laboratory, Intertek Testing Services, was approved to conduct the Section 37 ozone emissions test. Because of this addition of a second laboratory and the reduced estimate indicated above for the number of models expected to require the ozone test, staff concluded that an extension of the time allowed for testing and certification is not needed, and the manufacturers who made the original request concurred. However, additional time is needed for manufacturers to meet the labeling requirement for air cleaners already in the distribution or retail chain at the time the specific models are certified.

Additionally, early testing under the revised ANSI/UL Standard 867 Section 37 ozone emissions test identified areas in Section 37 where the test protocol was not clear, or unexpectedly caused the test for some models to take longer than anticipated. To clarify the test protocol, UL has issued two Certification Requirement Decisions to better specify steps that must be taken related to chamber set–up and meeting the steady state definition at hours 7 to 8 of the chamber test, and they will soon issue a third CRD on selecting the appropriate filters for testing for models marketed with multiple filter options.

Finally, ARB has become aware of multi–function appliances that include an air cleaning component (such as an electric heater with an ionizer) and must meet the requirements of the regulation, but are tested for electrical safety under industry test standards other than ANSI/UL Standards 507 and 867. A modification to the regulation is needed to allow such devices to undergo electrical testing under the appropriate ANSI/UL test standard, depending on the specific type of appliance.

Description of the Proposed Regulatory Action

In response to manufacturers' requests, ARB staff propose to extend the deadline for package certification labeling for one year, to October 18, 2011, and to allow the use of adhesive certification labels (rather than printing on the package) until October 1, 2012. These extensions apply only to air cleaner models that are tested and certified by the October 18, 2010 compliance date; all air cleaners must still be tested and certified by the current deadline of October 18, 2010. These measures will avoid the unnecessary costs of re–packaging certified air cleaners that are already in the distribution and retail chains at the time of certification, and will avoid loss of sales that would likely occur if re–packaging were required. The extension of the time allowed for use of adhesive labels rather than labels printed on the packaging will enable manufacturers to better time their design and printing costs for the new packaging and spread those costs over a longer period of time.

Several additional proposed amendments have also been identified by staff as necessary to improve implementation of the regulation. These amendments would: (1) allow the electrical safety tests to be conducted at additional facilities under the oversight of an NRTL; (2) incorporate the three clarifications described above to the ozone test protocol issued by UL; (3) allow alternate, appropriate electrical safety testing for multi–function appliances that include an air cleaning component; and (4) revise the definition of "mechanical filtration only" air cleaners.

The first of these amendments would allow electrical safety testing of air cleaners to be conducted not just by NRTLs, but also by facilities that meet the requirements of Supplemental Programs 2 through 6 of the United States Occupational Safety and Health Administration's Nationally Recognized Testing Laboratory (NRTL) recognition program (Federal Register 60:12980–12985). This amendment would, in effect, increase the number of allowable testing facilities for the electrical safety testing, but with testing and program oversight by an NRTL. This is consistent with current industry practice. Ozone emissions testing would continue to be limited to NRTL Program 1 and 2 facilities that have been audited and approved by ARB.

The next amendment would incorporate into the regulation the three CRDs issued by UL and described above, which clarify chamber set–up, steady state determinations, and filter selection for the ozone testing protocol of Section 37 of ANSI/UL Standard 867. These clarifications to the test protocol are minor refinements that would have the effect of increasing consistency of testing across laboratories and shortening the time necessary for some ozone tests.

The regulation also would be amended to allow the appropriate industry electrical safety tests other than ANSI/UL Standards 507 and 867 to be used for multi–function appliances that include an air cleaning compo-

nent but are normally tested for electrical safety under industry standards other than ANSI/UL Standards 507 and 867.

Finally, staff propose a minor revision to the definition of "mechanical filtration only" in section 94801 of the air cleaner regulation to include all pollutants (not just particles) by replacing the phrase "suspended particles" with "contaminants". This will make the definition internally consistent, and consistent with the rest of the regulation.

There would be no negative public health or environmental impacts anticipated from any of these proposed amendments.

COMPARABLE FEDERAL REGULATIONS

Health and Safety Code section 41986 requires that the proposed regulation be consistent with federal law. The United States Food and Drug Administration has promulgated a maximum acceptable level of ozone of 0.05 ppm for medical devices, as well as certain labeling requirements for such devices (21 CFR § 801.415). The emission standard and labeling requirements in the existing regulation that apply to air cleaners that are medical devices are consistent with this federal standard and are not proposed for change.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal and supporting technical documentation. The report is entitled: "Staff Report: Initial Statement of Reasons, Proposed Amendments to the Regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322–2990, at least 45 days prior to the scheduled hearing on December 9, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Ms. Peggy Jenkins, Manager of the Indoor Exposure Assessment Section, at (916) 323–1504 or Mr. Jim Behrmann at (916) 322–8278.

Further, the agency representative and designated back–up contact persons, to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322–4011, or Ms. Trini Balcazar, Regulations Coordinator, (916) 445–9564. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the Final Statement of Reasons, when completed, are available on ARB's website for this rulemaking at http://www.arb.ca.gov/regact/2009/iacd09/iacd09.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, businesses, and private persons in reasonable compliance with the proposed regulatory action are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any state agency, or in federal funding to the State. The regulation would not create costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to State or local agencies.

In developing the proposed amendments, ARB staff evaluated the potential economic impacts on representative private persons and businesses. The Executive Officer has initially determined that the proposed amendments are likely to produce small, but currently unquantifiable, time and cost reductions for manufacturers, distributors, and sellers of portable indoor air cleaners if the products are marketed for sale in California. Product costs to consumers are likely to either remain the same or decrease slightly. No costs to businesses and representative private persons or consumers to comply with the proposed amendments are expected.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states or on representative private persons. Of an esti-

mated 60 manufacturers of indoor air cleaning devices, only three manufacturers are based in California. All manufacturers of indoor air cleaning devices marketed for sale in California would be subject to the proposed amendments to the regulation, so there should be no effect on the business competitiveness of the California–based manufacturers.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses. Impacts from the proposal are likely to be positive because the proposed amendments would more likely decrease, rather than increase, costs relative to the original regulation.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the proposed amendments would establish no new reporting requirements.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting, and they may be submitted by postal mail or by electronic submittal before the meeting. To be considered by the Board, written comments or materials not physically submitted at the meeting must be received **no later than 12:00 noon, December 8, 2009**, and addressed to the following:

Postal mail: Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, California
95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

Please note that under the California Public Records Act (Government Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, 20 copies of any written submission. Also, ARB requests that written and electronic statements be filed at least 10 days prior to the meeting so that ARB staff and Board members have time to fully consider each comment.

The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted in Health and Safety Code section 41986. This action is proposed to implement, interpret, and make specific sections 41985, 41985.5, and 41986 of the Health and Safety Code; and sections 91000 et seq. of title 17, subchapter 4 (Disclosure of Records) of the California Code of Regulations; 29 CFR 1910.7, 21 CFR 801.415; section 201 U.S.C. 321.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non–substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322–2990.

TITLE 18. FRANCHISE TAX BOARD

As required by section 11346.4 of the Government Code, this is notice that a public hearing has been scheduled to be held at 1:00 p.m., January 13, 2010, at 9645 Butterfield Way, Town Center Golden State Room A, Sacramento, California, to consider amendment of section 25136 under Title 18 of the California Code of Regulations, pertaining to sales of other than tangible personal property.

An employee of the Franchise Tax Board will conduct the hearing. Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

Government Code section 15702, subdivision (b), provides for consideration by the three–member Franchise Tax Board of any proposed regulatory action if any person makes such a request in writing.

Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., January 13, 2010. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

AUTHORITY & REFERENCE

Section 19503 of the Revenue and Taxation Code authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with section 17001), Part 10.2 (commencing with section 18401), Part 10.7 (commencing with section 21001) and Part 11 (commencing with section 23001) of the Revenue and Taxation Code. The proposed regulatory action interprets, implements, and makes specific section 25136 of the Revenue and Taxation Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Taxpayers who have business activities within and without California are required to determine the amount of income properly attributed to activities in California by use of the Uniform Division of Income for Tax Purposes Act (UDITPA), Section 25120 et seq., Revenue and Taxation Code (RTC). Under UDITPA, business income is assigned to a state through the application of a three–factor apportionment formula that separately compares a business' property, payroll and sales within California to those values everywhere. These percentages are then added together, with the sales factor counted twice (see RTC section 25128), and the resulting sum of these four factors is then divided by four. This percentage is then applied to the business income of the taxpayer to determine the percentage of business income attributable to California.

The three–factor apportionment formula was adopted as a way of reflecting the different elements that provide value to a taxpayer's operation in a given state. The payroll factor reflects the amount of labor utilized by the taxpayer in performing its activities in the state. The property factor reflects the amount of capital utilized by the taxpayer in the state. The sales factor reflects the market for the goods or services of the taxpayer in the state. It has been stated that the purpose of the sales factor is "to give weight to the obtaining of markets," balancing to some extent property and payroll factors that favor production or manufacturing states.

The sales factor component of the UDIPTA apportionment formula has two assignment rules. Sales of tangible property are generally assigned to the location of the customer (the "destination" rule contained in RTC section 25135). Sales of other than tangible property are assigned to the jurisdiction where the income–producing activity related to the sale is performed (RTC section 25136).

RTC section 25136 generally provides that where the income–producing activity is performed both in and outside California, the sale will be assigned to California if the greater costs of performance in connection with the income–producing activity are incurred in California. The assignment of sales derived from (1) the provision of services, (2) the sale or rental, leasing, licensing or other use of real property, (3) the rental, leasing, licensing or other use of tangible personal property, and (4) the sale, licensing or other use of intangible personal property, is subject to the income–producing activity rules of the current Regulation section 25136.

Under subsection (b) of current Regulation section 25136, income–producing activity only includes "activity directly engaged in by the taxpayer in the regular course of its trade or business" and "does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor."

California's current Regulation section 25136 was adopted from the Multistate Tax Commission's model regulation for the same rule.

In 2006, the Franchise Tax Board issued Legal Ruling 2006–2, which provides that income–producing activities engaged in by members in a combined report on behalf of a taxpayer are includable as activities directly engaged in by the taxpayer for the income–producing activity/cost of performance analysis.

Later in 2006, the Multistate Tax Commission revised its model regulation for this rule and adopted amendments making assignments based upon activities of both the taxpayer and those performed on behalf of the taxpayer. This change was accomplished through a series of amendments. Two of the amendments strike the word "directly" and the words "does not" from the language in the model regulation. Another of the amendments adds additional language to the model regulation setting forth rules for determining the state where activities performed on behalf of a taxpayer are to be assigned.

The Franchise Tax Board proposes to adopt the MTC amendments to its model regulation to include all income–producing activities in the sales assignment process. However, while the Franchise Tax Board proposes to adopt the concept of the amendments to the MTC model regulation, the Franchise Tax Board's proposed language makes the meaning of the new cascading rules clearer and adds examples to help to explain how the cascading rules work.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non–discretionary cost or savings imposed upon local agencies: None.

Cost or savings in federal funding to the state: None.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Potential cost impact on private persons or businesses affected: The Franchise Tax Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on the creation or elimination of jobs in the state: None.

Significant effect on the creation of new businesses or elimination of existing businesses within the state: None.

Significant effect on the expansion of businesses currently doing business within the state: None. Corporations have been calculating their sales factor for sales of other than personal property using the cost of performance method; where the greater cost of performance is incurred is where the sale is assigned. The proposed amended Regulation section 25136 would not only simplify the way sales of other than personal property are assigned but would more accurately reflect the sales market for that corporation.

Effect on small business: The regulation is generally utilized by large multinational corporations and not small businesses.

Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no alternative considered by it would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

The proposed regulatory action pertains to corporate taxpayers and therefore does not affect private persons.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

An initial statement of reasons has been prepared setting forth the facts upon which the proposed regulatory action is based. The statement includes the specific purpose of the proposed regulatory action and the factual basis for determining that the proposed regulatory action is necessary.

The express terms of the proposed text of the regulation, the initial statement of reasons referred to above, and the rulemaking file are prepared and available upon request from the agency contact person named in this notice. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website mentioned below.

CHANGE OR MODIFICATION OF ACTIONS

The proposed regulatory action may be adopted after consideration of any comments received during the comment period.

The regulation may also be adopted with modifications if the changes are nonsubstantive or the resulting

regulation is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation as modified could result from that originally proposed. The text of the regulation as modified will be made available to the public at least 15 days prior to the date on which the regulation is adopted. Requests for copies of any modified regulation should be sent to the attention of the agency officer named below.

ADDITIONAL COMMENTS

If you plan on attending or making an oral presentation at the regulation hearing, please contact the agency officer named below.

The hearing room is accessible to persons with physical disabilities. Any person planning to attend the hearing who is in need of a language interpreter or sign language assistance, should contact the officer named below at least two weeks prior to the hearing so that the services of an interpreter may be arranged.

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at the Franchise Tax Board, Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741–1720; Telephone (916) 845–3306; Fax (916) 845–3648; E–Mail: Colleen.Berwick@ftb.ca.gov. In addition, all questions on the substance of the proposed regulation can be directed to Melissa Potter; Tel.: (916) 845–7831; E–Mail: Melissa.Potter@ftb.ca.gov. The notice, initial statement of reasons and express terms of the regulation are also available at the Franchise Tax Board's website at www.ftb.ca.gov.

TITLE 20. CALIFORNIA ENERGY COMMISSION

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF THE CALIFORNIA ENERGY COMMISSION

NOTICE IS HEREBY GIVEN that the State Energy Resources Conservation and Development Commission, known as the California Energy Commission, proposes to amend its conflict–of–interest code, as required and authorized by Government Code Sections 87300 and 87306. Pursuant to Government Code Section 87302, the code designates classifications of employees who must disclose certain investments, income, interests in real property, and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

The California Energy Commission proposes to amend the listing of designated positions at Title 20, section 2402, Appendix, subdivision (a), to include all current employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

These amendments also eliminate employee classifications no longer in use, eliminate disclosure categories no longer considered applicable to a particular classification, update and add division headings and job titles to reflect the current organizational structure of the Energy Commission, and correct nonsubstantive errors. Copies of the proposed amendments are available and may be requested from the contact person listed below.

A written comment period has been established commencing on October 30, 2009 and terminating on December 15, 2009. Any interested person may present written comments concerning the proposed code no later than December 15, 2009, to the contact person listed below. No public hearing on this matter will be held unless any interested person or his or her representative requests a public hearing no later than 15 days prior to the close of the written comment period.

The California Energy Commission has prepared a written explanation of the reasons for the amendments. Copies of the proposed code, the written explanation, and all of the information upon which the amendments are based may be obtained from the contact person listed below. Any inquiries concerning the proposed code should be directed to the contact person.

Adoption of the proposed amendments:

1. will not impose a mandate on local agencies or school districts;
2. will not impose costs or savings on any state agency;
3. will not impose costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code;
4. will not result in any nondiscretionary costs or savings to local agencies;
5. will not result in any costs or savings in federal funding to the state; and
6. will not have any potential cost impact on private persons or businesses, including small businesses.

In adopting the proposed amendments, the Energy Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed

or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Ms. Robin Mayer
Staff Counsel
California Energy Commission
1516 Ninth Street, MS–14
Ph: (916) 651–2921
E–Mail: rmayer@energy.state.ca.us

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice
For Publication October 23, 2009
CESA CONSISTENCY DETERMINATION
REQUEST FOR
Interstate 80 Bicycle and Pedestrian Overpassing
Sacramento County
2080–2009–015–02

The Department of Fish and Game (Department) received a notice on October 8, 2009, that the City of Sacramento proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). The Project consists of the construction of an overcrossing to connect the existing bicycle path along the East Drainage Canal in North Natomas in Sacramento County (Project). The Project is comprised of two bridge segments: one across Interstate 80 and one across the West Drainage Canal.

Project activities will result in permanent impacts to 0.8 acres of habitat suitable for giant garter snake (*Thamnophis Gigas*), including 0.67 acres of upland snake habitat from path construction and 0.13 acres of aquatic snake habitat from lining the canal with concrete. Project activities will also result in temporary impacts to approximately 1.14 acres of habitat suitable for giant garter snake, including 0.12 acres of aquatic habitat from area dewatering and 1.08 acres of upland snake habitat from staging areas and bridge embankments.

The U.S. Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (81420–2008–F–1688–2)(BO) and incidental take statement (ITS) to the California Department of Transportation (designated as lead agency as per Memorandum of Understanding with the Federal Highway Administration) on January 27, 2009 which considered the effects of the project on the Federally threatened and State threatened giant garter snake. Pursuant to California Fish and Game Code Section 2080.1, the City of Sacramento is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, the City of Sacramento will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Fish and Game Code Section 2074.2, the California Fish and Game Commission, at its June 24, 2009, meeting in Woodland, California, set aside its June 27, 2008, written findings in support of its decision to reject the petition filed by the Center for Biological Diversity to list the American pika (*Ochotona princeps*) as a threatened species. The Commission reconsidered the petition and rejected it based on a finding that the petition did not provide sufficient information to indicate that the petitioned action may be warranted. At this meeting, the Commission also announced its intention to ratify its findings.

NOTICE IS ALSO GIVEN that, at its October 1, 2009, meeting in Woodland, California, the Commission adopted the following findings outlining the reasons for its rejection of the petition.

I
BACKGROUND

August 22, 2007. The Commission office received a petition from the Center for Biological Diversity (CBD) to list the American pika as threatened under the California Endangered Species Act (CESA).

August 30, 2007. The Commission office referred the petition to the Department of Fish and Game (Department) for review and analysis pursuant to Fish and Game Code Section 2073.5.

September 10, 2007. The Commission submitted a notice of receipt of the petition, for publication in the California Regulatory Notice Register, as well as for mailing to interested and affected parties.

September 13, 2007. The Department submitted a written request for a 30–day extension to evaluate the petition.

October 12, 2007. The Commission approved the Department's request for a 30–day extension to evaluate the petition.

December 21, 2007. The Department submitted its written evaluation of the petition.

February 7, 2008. The Commission announced receipt of the Department's evaluation of the petition to list the American pika as threatened and indicated its intent to consider the petition, the Department's evaluation, and public comments at the March 6–7, 2008 meeting.

March 4, 2008. The Commission office received a 25–page letter from CBD in rebuttal to the Department's evaluation. Six additional exhibits were appended to this letter.

March 7, 2008. The Department discussed its evaluation of the petition at the Commission meeting. The Commission took comments on the petition and the Department's evaluation. Because of the additional information submitted by CBD, the Commission continued its consideration of the petition to the April 10–11 meeting in Bodega Bay.

April 8, 2008. The Commission office received an e–mail message from Mr. Brian Nowicki of CBD, with four attachments pertaining to the American pika.

April 10, 2008. The Commission considered the petition and took additional comments related to it and the Department's evaluation. At this meeting the Commission rejected the petition, finding that it did not contain sufficient information to indicate the petitioned action may be warranted. Staff was directed to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.

August 19, 2008. CBD filed a Petition for Writ of Mandate in San Francisco Superior Court challenging the Commission's decision to reject the petition.

May 11, 2009. San Francisco Superior Court Judge Peter Busch issued a writ of mandate directing the Commission to set aside its June 27, 2008 findings rejecting the petition to list the American pika and reconsider its action in light of the court's judgment.

May 19, 2009. The Commission office received a 17–page letter from CBD requesting that the Commission take into account the information in the letter when reconsidering the petition.

June 24, 2009. The Commission considered the petition and took additional comments related to it. At this meeting, the Commission set aside its June 27, 2008 written findings in support of its decision to reject the petition. At this meeting, the Commission also reconsidered and rejected the petition, finding that it did not contain sufficient information to indicate the petitioned action may be warranted. Staff was directed to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.

II
STATUTORY REQUIREMENTS

A species is endangered under CESA (Fish and Game Code § 2050 et seq.) if it "is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease." (Fish & G. Code, § 2062.) A species is threatened under CESA if it is "not presently threatened with extinction [but] is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA]. . . ." (Fish & G. Code, § 2067.) Responsibility for deciding whether a species should be listed as endangered or threatened rests with the Commission. (Fish & G. Code, § 2070.)

California law does not define what constitutes a "serious danger" to a species, nor does it describe what constitutes a "significant portion" of a species' range. The Commission makes the determination as to whether a species currently faces a serious danger of extinction throughout a significant portion of its range (or, for a listing as threatened, whether such a future threat is likely) on a case–by–case basis after evaluating and weighing all the biological and management information before it.

Non–emergency listings involve a two–step process. First, the Commission "accepts" a petition to list the species, which immediately triggers regulatory protections by establishing the species as a candidate for listing and triggers up to a twelve–month study by the Department of the species' status. (Fish & G. Code, §§ 2074.2, 2074.6.) Second, the Commission considers the Department's status report and information provided by other parties and makes a final decision to formally list the species as endangered or threatened. (Fish & G. Code, § 2075.5.)

To be accepted by the Commission, a petition to list a species under CESA must include sufficient scientific information that the listing may be warranted. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subds. (d) and (e).) The petition must include information regarding the species' population trend, range, distribution, abundance and life history; factors affecting the species' ability to survive and reproduce; the degree and immediacy of the threat to the species; the impact of existing management efforts; suggestions for future management of the species; the availability and sources of information about the species; information about the kind of habitat necessary for survival of the species; and a detailed distribution map. (Fish & G. Code, § 2072.3; Cal. Code Regs., tit. 14, § 670.1, subd. (d)(1).)

Within ten days of receipt by the Commission, a petition is forwarded to the Department for analysis. (Fish

& G. Code, § 2073.) Within 90 days of receipt, the Department submits to the Commission an evaluation report of the petition and other available information (Fish & G. Code, § 2073.5), including a recommendation on whether the petitioned action may be warranted. The Department may request and be granted a time extension of up to 30 additional days to submit the evaluation report. After public release of the Department's evaluation report (Fish & G. Code, § 2074), the Commission will schedule the petition for consideration. In deciding whether it has sufficient information to indicate the listing may be warranted, the Commission is required to consider the petition itself, the Department's written evaluation report, and other comments received about the petitioned action. (Fish & G. Code, § 2074.2.)

The standard of proof to be used by the Commission in deciding whether listing may be warranted (i.e., whether to accept or reject a petition) was described in *Natural Resources Defense Council* v. *Fish and Game Commission* (1994) 28 Cal. App.4th 1104 (*NRDC* case). In the *NRDC* case, the court determined that "the Section 2074.2 phrase 'petition provides sufficient information to indicate that the petitioned action may be warranted' means that amount of information, when considered in light of the Department's written report and the comments received, that would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur. . . ." (*Id*., at p. 1125.) This "substantial possibility" standard is more demanding than the "reasonable possibility" or "fair argument" standard found in the California Environmental Quality Act, but is lower than the legal standard for a preliminary injunction, which would require the Commission to determine that a listing is "more likely than not" to occur. (*Ibid.*)

The *NRDC* court noted that this "substantial possibility" standard involves an exercise of the Commission's discretion and a weighing of evidence for and against listing, in contrast to the fair argument standard that examines evidence on only one side of the issue. (*Id*., at p. 1125.) As the Court concluded, the decision–making process involves:

> . . . a taking of evidence for and against listing in a public quasi–adjudicatory setting, a weighing of that evidence, and a Commission discretion to determine essentially a question of fact based on that evidence. This process, in other words, contemplates a meaningful opportunity to present evidence contrary to the petition and a meaningful consideration of that evidence.

(*Id.*, at p. 1126.) Therefore, in determining whether listing "may be warranted," the Commission must consider not only the petition and the report prepared on the petition by the Department, but other evidence introduced in the proceedings. The Commission must decide this question in light of the entire record.

In *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, the court acknowledged that "the Commission is the finder of fact in the first instance in evaluating the information in the record." (*Id*., at p. 611, citing *NRDC, supra*, 28 Cal.App.4th at p. 1125.) The court explained:

> [T]he standard, at this threshold in the listing process, requires only that a substantial possibility of listing could be found by an objective, reasonable person. The Commission is not free to choose between conflicting inferences on subordinate issues and thereafter rely upon those choices in assessing how a reasonable person would view the listing decision. Its decision turns not on rationally based doubt about listing, but on the absence of any substantial possibility that the species could be listed after the requisite review of the status of the species by the Department[.]

(*Ibid.*) Thus, without choosing between conflicting inferences, the Commission must objectively evaluate and weigh the information both for and against the listing action and determine whether there is a substantial possibility that the listing could occur. (*Id*., at p. 612.)

III
REASONS FOR FINDING

This statement of reasons for the finding sets forth an explanation of the basis for the Commission's finding and its rejection of the petition to list the American pika as a threatened species. It is not a comprehensive review of all information considered by the Commission and for the most part does not address evidence that, while relevant to the proposed listing, was not at issue in the Commission's decision. However, all written and oral comments presented to the Commission regarding the petition are considered part of the record.

In order to accept this petition, the Commission is required to determine that it has sufficient information to persuade a reasonable person that there is a substantial possibility that listing of the American pika could occur. Guided by the *NRDC* and *Center for Biological Diversity* cases, the Commission must objectively weigh and evaluate all evidence.

Fish and Game Code Section 2072.3 lists several informational categories to be evaluated in determining whether a petition should be accepted. The petition and record as a whole were insufficient to demonstrate that the listing action could occur.

The informational deficiencies and categories of information described in Section 2072.3 most relevant to this finding are:

(1) Population trend;

(2) Population abundance; and

(3) Degree and immediacy of threat.

1. **Population Trend:**

2. **Population Abundance:**

The petition contains minimal information on population abundance, density or trends. The petition reports that ". . . pika populations have been lost from multiple low–elevation sites in Yosemite National Park during the past 90 years." Otherwise, it reports no information regarding population numbers, except for the White Mountains (*O. p. sheltoni*) subspecies. While it appears that near–annual surveys have occurred within or near Bodie State Historic Park (Nichols, personal communication to Gustafson, 2007; provided by petitioner and written by Dr. Nichols (dated April 2009 regarding survey work in 2008)), these surveys are not sufficient to conclude that listing of this subspecies may be warranted. Among its deficiencies, the survey results are not reported in the Population Status portion of the petition, the methodology and survey site selection is not adequately described, the information presented has not been independently verified, confirmed or peer–reviewed, and the scope and context of the surveys in relation to the entire Bodie Hills area is unclear, particularly since Dr. Nichols still observed pikas in Bodie State Historic Park.

The petition does not describe the overall geographic range of the pika in California or the geographic range of any of the five subspecies found in the State. The petition provides no information on the distribution of the pika within its California geographic range, other than to say that elevations of historic populations [in California] ranged from 1370 [meters] to 3700 [meters]. The petition provides no information or description on any overall trend in the size or distribution of populations of the pika in California or of populations of four of the five sub–species occurring in the State.

The Commission finds that the population status of the American pika in California is largely unstudied and unknown. There have been no systematic, comprehensive, rangewide studies of pikas in California, and the petition does not contain sufficient information about the American pika throughout all or a significant portion of its range in California. Parameters to describe abundance, density, recruitment and population trends are unknown or unavailable. Further, the petition's statement that populations were lost from multiple low–elevation sites in Yosemite was not justified, according to a key researcher in the Yosemite National Park pika study, who stated that pika populations appeared healthy (Patton, personal communication).

Petitioner asserts that because of the lack of monitoring information, a rationale for listing should not depend on showing that population status is declining in California. Instead, petitioner argues that global warming poses a threat to the long–term survival of pikas in California and listing is justified because:

1. the pika is a unique mammal and extremely vulnerable to high temperatures;
2. upper elevation habitat for California pikas has experienced significant temperature increases, making it less suitable;
3. pika range in California is contracting upslope;
4. a recent study (Beever et al., 2003) reported pika population extirpations at six Oregon and Nevada locations within the Great Basin ecoregion and attributed extirpations to thermal stress from climate change; and
5. pikas in California are threatened by continued habitat alteration due to climate change.

Petitioner described potential broad scale effects of climate change on wildlife and plant communities of the Sierra Nevada ecoregion, and has cited sources to establish the vulnerability of pikas to high temperatures. However, the petition does not discuss the potential for behavioral adaptations in pikas as a method of mitigating at least some anticipated effects of global warming. This is especially relevant because pika populations at lower elevations (such as Bodie State Historical Park) apparently reduce mid–day activity as a means of avoiding the heat.

The petition also asserts that upper elevation habitat for California pikas has experienced significant temperature increases and is now less suitable because pika range in California is contracting upslope. However, the petition's evaluation of microhabitat conditions at upper elevation habitat is inadequate, especially subtalus microclimate conditions related to temperature. The petition does not adequately demonstrate that pika distribution in California has contracted (or is contracting) upslope. Moreover, the petition does not show that upslope habitat in California is significantly limited in its availability or quality, to the extent that an upslope shift in distribution would be expected to constitute a threat to pika populations statewide.

Most important, the petition apparently attempts to use habitat conditions and population trends in the Great Basin ecoregion as proxies to predict the demise of pikas in the Sierra Nevada ecoregion of California. It does so without adequately comparing or contrasting these ecoregions, and without providing sufficient information about this ecoregion in California. It is erroneous to assume that because they are adjacent to one another, these ecoregions are similar in terms of pika habitat suitability. Because of the availability of suitable, continuous high–elevation habitat, distribution of pikas along the Sierra Nevadas may be much more con-

tinuous than within the Great Basin. The petition fails to acknowledge or discuss this, and the Commission does not believe that the decline of some pika populations in the Great Basin constitutes sufficient information to create a substantial possibility that listing pikas within the Sierra Nevada ecoregion in California may be warranted.

Fish and Game Code Section 2072.3 clearly states that the petition must provide information about species' abundance and population trend. This information must be about the species in California. Although some may suggest that pikas are difficult to survey, it is worth noting that, in addition to the population trend data available from the Great Basin, abundance and population trend information is available for other subspecies of pika in Alaska and China. This petition is clearly deficient in that it fails to provide sufficient scientific information on both population trend and abundance.

3. **Degree and immediacy of threat:**

The lack of population abundance and trend information in the petition also impacts the discussion of purported threats to the American pika. Without a reliable population estimate, realistic assessment of the scope of the threat to the species is impossible. Most listings of other species by the Commission were clearly documented by utilizing population size to show dramatic and measurable declines caused by the lack of protections. Some listings of species looked to small population size initially to show the need for immediate protection.

The petition lacks empirical data to describe population trend and abundance. Instead, petitioner implicitly assumes that extirpations of pika populations in the Great Basin are predictive of similar occurrences within the Sierra Nevada ecoregion. It is not reasonable to accept such an assumption without empirical data and a comparison of the Sierra Nevada and Great Basin ecoregions. Thus, in discussing purported threats to the American pika as a result of climate change, the petition is speculative and does not provide sufficient information for the Commission to determine that there is a substantial possibility that the listing of pikas could occur.

Fish and Game Code Section 2072.3 explicitly requires the presentation of sufficient credible information on the questions of degree and immediacy of threat and the impact of existing management efforts. Section 2072.3 provides that "Petitions shall include information regarding. . .the degree and immediacy of threat, the impact of existing management efforts. . . ." The petition lacks sufficient information on the degree and immediacy of threat component of the statute under current conditions.

IV
FINAL DETERMINATION BY COMMISSION

The Commission has weighed and evaluated all information and inferences for and against accepting the petition, including the scientific and general evidence in the petition, the Department's written report, and written and oral comments received from members of the public. Based upon the record, the Commission has determined that the petition and overall record provides insufficient evidence to persuade an objective, reasonable person that the petitioned action may be warranted. (Fish & G. Code § 2074.2.) In making this determination the Commission finds that the petition does not provide sufficient information in the categories of population trend, abundance, and degree and immediacy of threat to find that the petitioned action may be warranted. The Commission also finds that the petition provided insufficient information range–wide regarding population trends and abundance and degree and immediacy of threat for the Commission to adequately assess the threat and find that an objective, reasonable person would conclude there was a substantial possibility that listing the species could occur.

DECISION NOT TO PROCEED

DEPARTMENT OF JUSTICE/BUREAU OF GAMBLING CONTROL

NOTICE OF DECISION NOT TO PROCEED
Pursuant to Government Code section 11347

California Department of Justice
Bureau of Gambling Control

Pursuant to Government Code Section 11347, the California Department of Justice, Bureau of Gambling Control (Bureau) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register (CRNR), October 28, 2008 (CRNR 2008, 43–Z, p. 1868, OAL File No. Z2008–1008–02). The proposed rulemaking concerned Gaming Activity Review (Tournaments).

The Bureau plans at a later date, with notice as required by law, to amend these regulations pertaining to the same subject matter.

Any interested person with questions concerning this rulemaking should contact Susanne George at (916)

263–4971 or by e–mail at: Susanne.George@doj.ca.gov.

This Notice of Decision Not to Proceed will also be published on the Bureau's website.

OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324–6044 or mmolina@oal.ca.gov.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: October 6, 2009

To: Alfredo Gomez

From: Chapter Two Compliance Unit

Subject: **2009 OAL DETERMINATION NO. 23(S) (CTU2009–0612–01)**
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition Challenging as Underground Regulations: High Desert State Prison Supplement to the Department Operations Manual, titled "Library and Law Library" and dated January 2009

On June 12, 2009, you submitted a petition to the Office of Administrative Law (OAL) alleging that the California Department of Corrections and Rehabilitation (CDCR) had issued, used, enforced or attempted to enforce underground regulations. Your petition asks for a determination as to whether specific rules found in a High Desert State Prison Supplement to the Department Operations Manual (DOM), titled "Library and Law Library" and dated January 2009, constitute underground regulations.

The specific rules found in this DOM Supplement that you challenge as underground regulations concern certain library and law library procedures: limiting computer access to a maximum of four hours per week; and limiting indigent inmates to two copies of legal documents not to exceed 50 pages in length. This DOM Supplement is signed by Warden M. D. McDonald of High Desert State Prison. This DOM Supplement is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,[1] which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).[2] Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA. Penal Code section 5058, subdivision (c), establishes exemptions expressly for the California Department of Corrections and Rehabilitation:

> (c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:
>
> > (1) Rules issued by the director applying solely to a particular prison or other correctional facility. . . .

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution.

---

[1] "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

[2] Such a rule is called an "underground regulation" as defined in California Code of Regulations, title 1, section 250, subsection (a):

> "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

In *In re Garcia* (67 Cal.App.4th 841, 845), the court discussed the nature of a "local rule" adopted by the warden for the Richard J. Donovan Correctional Facility (Donovan) which dealt with correspondence between inmates at Donovan:

> The Donovan inter–institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.
>
> . . .
>
> The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the rules in the DOM Supplement challenged by your petition were issued by the warden, M. D. McDonald, at High Desert State Prison. Inmates housed at other institutions are governed by those other institutions' rules dealing with library and law library procedures. The rules you challenge were issued by the warden at High Desert State Prison and apply only to inmates at the High Desert State Prison. Therefore, these rules are "local rules" and are exempt from compliance with the APA pursuant to Penal Code section 5058(c)(1).[3]

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
Susan Lapsley
Director

[3] The rules challenged by your petition are the proper subject of a summary disposition letter pursuant to title 1 , section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

> (f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.
> (2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:
> (A) The challenged rule has been superseded.
> (B) The challenged rule is contained in a California statute.
> (C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.
> (D) The challenged rule has expired by its own terms.
> **(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule**. (Emphasis added.)

/s/
George Shaw
Staff Counsel

Copy: Matthew Cate
John McClure

DISAPPROVAL DECISION

DEPARTMENT OF PUBLIC HEALTH

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

In re:

DEPARTMENT OF PUBLIC HEALTH

REGULATORY ACTION:
Title 22, California Code of Regulations

AMEND SECTIONS: 70055, 70577, 70703, 70706, 70707, 70717, 70749, 70751, 70753, 71053, 71203, 71205, 71503, 71507, 71517, 71545, 71551, 71553, 72091, 72109, 72303, 72311, 72315, 72319, 72337, 72413, 72423, 72433, 72453, 72461, 72471, 72515, 72523, 72525, 72528, 72543, 72547, 73077, 73089, 73301, 73303, 73311, 73313, 73315, 73325, 73329, 73399, 73409, 73449, 73469, 73479, 73489, 73517, 73519, 73523, 73524, 73543, 73547, 79315, 79351, 79637, AND 79689

DECISION OF DISAPPROVAL
OF REGULATORY ACTION
(Gov. Code, sec. 11349.3)

OAL File No. 2009–0827–02S

SUMMARY OF REGULATORY ACTION

The Department of Public Health (Department) proposed to amend existing regulations contained in title 22 of the California Code of Regulations relating to the scope of practice in General Acute Care Hospitals, Acute Psychiatric Hospitals, Skilled Nursing Facilities, Intermediate Care Facilities, and Chemical Dependency Rehabilitation Hospitals.

DECISION

On October 9, 2009, the Office of Administrative Law (OAL) disapproved the above referenced regula-

tory action for the following reasons: failure to comply with the consistency and clarity standards of Government Code section 11349 and for failure to make a change to the regulations available as required by Government Code section 11346.8(c) and section 44 of title 1 of the California Code of Regulations.

/s/
CRAIG S. TARPENNING
Senior Staff Counsel

for: SUSAN LAPSLEY
Director

Original: Mark Horton
cc: Barbara Gallaway

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009–0901–02
AIR RESOURCES BOARD
AB 118 Air Quality Improvement Program Guidelines 2009

This regulatory action provides guidelines to implement AB 118; Statutes of 2007; Chapter 750. It establishes the overall administrative procedures for the Air Quality Improvement Program (AQIP) Funding Plan, including its development, grant project solicitations, program administration, oversight/accountability and reporting requirements.

Title 13
California Code of Regulations
ADOPT: 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359
Filed 10/13/2009
Effective 10/13/2009
Agency Contact: Amy Whiting (916) 322–6533

File# 2009–0826–02
BOARD OF BEHAVIORAL SCIENCES
Disciplinary Guidelines

On June 3, 2009, in rulemaking 2009–0422–02, the Office of Administrative Law (OAL) approved the Board of Behavioral Sciences' (Board) proposed amendment of Title 16, section 1888 of the California Code of Regulations. Specifically, the Board sought to update the Board's Disciplinary Guidelines which are incorporated by reference in section 1888. The rulemaking package contained a complete copy of the Disciplinary Guidelines and the proposed text incorporating the Board's changes. However, when the final order of adoption was filed with OAL, five pages were inadvertently left out of the final copy of the Disciplinary Guidelines attached to the Form 400 and the proposed final text. Accordingly, the OAL reviewing attorney reviewed and OAL ultimately approved the Disciplinary Guidelines that were missing the five pages. In order to ensure that the Disciplinary Guidelines are complete and accurate as adopted by the Board, the Board submits the Disciplinary Guidelines in their entirety including the previously missing five pages for review and approval by OAL.

Title 16
California Code of Regulations
AMEND: 1888
Filed 10/08/2009
Effective 10/08/2009
Agency Contact: Christy Berger (916) 574–8625

File# 2009–0827–03
CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY
Children's Hospital Program of 2004

This rulemaking action implements Proposition 61 of 2004, which authorized $750 million in general obligation bonds to fund the Children's Hospital Program of 2004, which seeks to increase and expand services for children at California's children's hospitals. Specifically, this rulemaking amends regulations in Title 4 of the California Code of Regulations to improve and simplify the program application process by, among other things, dropping requirements for submission of draft architect, design, and engineering contracts and plans for project implementation as part of the application, by adding board approved capital campaign plans to the list of things an applicant may submit as proof of other funding sources, by adding purchase orders and invoices to the list of things a hospital may use to prove project completion, and by making corresponding changes to application forms and instructions.

Title 4
California Code of Regulations
AMEND: 7030, 7034, 7035, 7037, 7038, 7042, 7044, 7045, 7046, 7048, 7049, 7050
Filed 10/07/2009
Effective 10/07/2009
Agency Contact: Barry Scarff (916) 654–5711

File# 2009–0929–02
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Clarification and Various Corrections

This change without regulatory effect amends the date of two incorporated forms in title 11. Several other forms and guidelines that are for discretionary use are also having their revision dates amended. Other changes include amending the text to mirror statutory language and clarifying Selective Service requirements.

Title 11
California Code of Regulations
AMEND: 9052(c), 9053(b), 9053(c), 9053(e)(5)(A)4, 9053(e)(10(A), 9053(e)(10)(B), 9054(e)(4), 9057(b), 9059(b), 9059(c), 9059(e)(9)(A), 9059(e)(9)(B), 9060(e)(4)
Filed 10/14/2009
Agency Contact: Patti Kaida (916) 227–4847

File# 2009–0903–07
DEPARTMENT OF CORRECTIONS AND REHABILITATION
ETO for Religious Events

This regulatory action allows for the use of excused time off (ETO) for attendance at routine religious services.

Title 15
California Code of Regulations
AMEND: 3045.2
Filed 10/14/2009
Effective 11/13/2009
Agency Contact: John McClure (916) 255–5464

File# 2009–0828–01
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Eradication Area

This certificate of compliance makes permanent two prior emergency regulatory actions (OAL file nos. 2009–0303–02E and 2009–0407–01E) that established eradication areas for the Light Brown Apple Moth (Epiphyas postvittana) in Ventura and Yolo counties, respectively.

Title 3
California Code of Regulations
AMEND: 3591.20(a)
Filed 10/08/2009
Agency Contact:
Stephen S. Brown (916) 654–1017

File# 2009–1005–02
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This emergency regulatory action will expand existing regulated quarantine areas in the counties of Los Angeles (approximately one square mile), Napa (approximately one square mile), and Alameda, Monterey, and Santa Clara (approximately 44 square miles), and establish a new quarantine area in the Arroyo Grande area of San Luis Obispo County (approximately 13 square miles) due to recent findings of the light brown apple moth "LBAM" ("Epiphyas postvittana"). This will result in a total of approximately 3,756 square miles under regulation within the State for the pest. The effect of these amendments to the regulation is to establish the authority for the State to perform quarantine activities against the LBAM in these new areas.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 10/08/2009
Effective 10/08/2009
Agency Contact:
Stephen S. Brown (916) 654–1017

File# 2009–0921–01
DEPARTMENT OF VETERANS AFFAIRS
Conflict–of–Interest Code

The California Department of Veteran Affairs is repealing its current conflict of interest code and adopting a new conflict of interest code found at title 12, section 600, California Code of Regulations. The changes were approved by the Fair Political Practices Commission for filing on September 13, 2009.

Title 12
California Code of Regulations
ADOPT: 600 REPEAL: 600
Filed 10/13/2009
Effective 11/12/2009
Agency Contact: Angela Willett (916) 651–3068

File# 2009–0901–01
FISH AND GAME COMMISSION
Lobsters, Permits to Take

In this regulatory action, the Fish and Game Commission amends its existing regulation pertaining to "Lobsters, Permits to Take" which sets forth rules relating to

commercial lobster fishing. The amendments principally relate to clarifying the method of take and locations where lobster can be taken, adding a requirement for maintaining the condition of lobster trap buoys, deleting language that is no longer needed and obsolete, and reorganizing existing provisions.

Title 14
California Code of Regulations
AMEND: 122
Filed 10/07/2009
Effective 11/06/2009
Agency Contact: Sheri Tiemann (916) 654–9872

File# 2009–0825–06
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
Portable and Vehicle–Mounted Generators

The Occupational Safety and Health Standards Board proposed this rulemaking action to amend title 8, California Code of Regulations, section 2395.6 to conform the electrical grounding provisions for portable and vehicle–mounted generators to National Electrical Code standards and to counterpart federal standards.

Title 8
California Code of Regulations
AMEND: 2395.6
Filed 10/07/2009
Effective 11/06/2009
Agency Contact: Marley Hart (916) 274–5721

File# 2009–0825–04
PHYSICAL THERAPY BOARD OF CALIFORNIA
Continuing Competency

This action specifies the amount of continuing education required of physical therapists and physical therapist assistants prior to license renewal and various related administrative matters intended to assure continuing competency of licensees, and repeals obsolete license fees that have been replaced by fees set forth in a statue.

Title 16
California Code of Regulations
ADOPT: 1399.90, 1399.91, 1399.92, 1399.93, 1399.94, 1399.95, 1399.96, 1399.97, 1399.98, 1399.99 REPEAL: 1399.50, 1399.52
Filed 10/07/2009
Effective 11/06/2009
Agency Contact: Rebecca Marco (916) 561–8260

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN May 13, 2009 TO October 14, 2009

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

10/01/09	AMEND: 2291, 2292, 2294 ADOPT: 2297
10/01/09	AMEND: 1898.2, 1898.7
09/22/09	ADOPT: 18603, 18603.1
09/22/09	ADOPT: 18901.1 AMEND: 18420.1
09/18/09	AMEND: 1859.76
09/17/09	AMEND: 2270, 2271
09/14/09	AMEND: 588.1, 588.2
08/31/09	ADOPT: 1859.324.2 AMEND: 1859.302, 1859.324.1, 1859.330
08/03/09	ADOPT: 647.5, 647.25, 647.36, 647.37.1 AMEND: 647.1, 647.2, 647.3, 647.4, 647.20, 647.20.1, 647.22, 647.23, 647.24, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.38 REPEAL: 647.25, 647.34
07/30/09	ADOPT: 1899.570, 1899.575, 1899.580, 1899.585
07/20/09	ADOPT: 721
07/07/09	AMEND: 18450.4
07/06/09	AMEND: 18940.2
06/15/09	ADOPT: 18746.4 AMEND: 18741.1, 18746.1, 18746.3
06/12/09	ADOPT: 649.14, 649.17, 649.18, 649.23, 649.25, 649.29, 649.32, 649.33, 649.48 AMEND: 647.4, 649, 649.2, 649.4, 649.7, 649.8, 649.11, 649.12, 649.13, 649.15, 649.16, 649.22, 649.24, 649.26, 649.27, 649.28, 649.30, 649.31, 649.35, 649.36, 649.50, 649.51, 649.57, 649.58, 649.59, 649.62 REPEAL: 649.3, 649.6, 649.9, 649.10, 649.14, 649.23, 649.25
06/09/09	ADOPT: 18405
06/01/09	ADOPT: 250.1
05/21/09	AMEND: 18705.1
05/14/09	ADOPT: 21000, 21001, 21002, 21003, 21004, 21005, 21006, 21007, 21008, 21009

Title 3

10/08/09	AMEND: 3434(b)

10/08/09 AMEND: 3591.20(a)
09/24/09 AMEND: 3406(b)
09/24/09 AMEND: 3434(b)
09/22/09 AMEND: 6562
09/15/09 AMEND: 3434(b)
09/14/09 AMEND: 3435(b)
09/10/09 ADOPT: 2300.1, 2300.2, 2300.3 AMEND: 2300
09/09/09 AMEND: 3434(b)
09/03/09 AMEND: 3434(b)
09/01/09 AMEND: 3435(b)
08/28/09 AMEND: 3434(b)
08/27/09 AMEND: 3435(b)
08/27/09 AMEND: 3588
08/26/09 AMEND: 6400, 6502, 6620, 6626(a)–(b), 6626(c), 6627, 6670, 6672, 6736, and incorporated by reference forms
08/20/09 AMEND: 3406(b)
08/20/09 AMEND: 3591.13(a)
08/13/09 AMEND: 3434(b)
08/13/09 AMEND: 6618, 6619, 6761.1, 6770, 6771
08/12/09 ADOPT: 902.15
08/07/09 AMEND: 3406(b)
08/05/09 AMEND: 3434(b), 3434(c)
08/04/09 AMEND: 3423(b)
07/31/09 ADOPT: 3436
07/24/09 AMEND: 3434(b)
07/22/09 ADOPT: 3591.23
07/22/09 AMEND: 3406(b)
07/21/09 AMEND: 3591.2(a)
07/20/09 AMEND: 3591.20(a)
07/13/09 AMEND: 625
07/07/09 AMEND: 3435
07/02/09 AMEND: 3423(b)
06/30/09 AMEND: 3434(b)
06/22/09 AMEND: 3434(b)
06/19/09 AMEND: 3591.20(a)
06/15/09 AMEND: 3406(b)
06/15/09 AMEND: 3434(b)
06/01/09 AMEND: 3406(b)
06/01/09 ADOPT: 3408
05/26/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/13/09 AMEND: 6800

Title 4

10/07/09 AMEND: 7030, 7034, 7035, 7037, 7038, 7042, 7044, 7045, 7046, 7048, 7049, 7050
08/25/09 ADOPT: 12380, 12381, 12384, 12385, 12386 AMEND: 12360
08/04/09 AMEND: 1853
07/31/09 AMEND: 10020
07/31/09 ADOPT: 7051, 7052, 7053, 7054, 7055, 7056, 7057, 7058, 7059, 7060, 7061, 7062, 7063, 7064, 7065, 7066, 7067, 7068, 7069, 7070, 7071
07/21/09 AMEND: 1979, 1979.1
07/21/09 REPEAL: 1950.1
06/25/09 ADOPT: 12486
06/22/09 ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078
06/04/09 AMEND: 106
05/18/09 ADOPT: 12488, 12508, 12510, 12511, 12514 AMEND: 12480, 12486
05/18/09 ADOPT: 12482

Title 5

08/20/09 ADOPT: 19825.1 AMEND: 19816, 19816.1, 19825, 19825.1 (renumber to 19825.2)
07/21/09 ADOPT: 43200
07/21/09 ADOPT: 43220
07/21/09 AMEND: 42920
07/21/09 ADOPT: 40411
07/09/09 AMEND: 18100
07/03/09 ADOPT: 80027.1, 80048.7 AMEND: 80027
06/29/09 ADOPT: 19821.5, 19825.1, 19828.4, 19837.3, 19839, 19845.2 AMEND: 19815, 19816, 19816.1, 19828.3, 19837.2, 19845.1, 19846
05/28/09 AMEND: 9521

Title 8

10/07/09 AMEND: 2395.6
08/31/09 AMEND: 3385
08/27/09 AMEND: 3400
07/31/09 AMEND: 1637, 1646
07/27/09 AMEND: 5006.1
07/24/09 AMEND: 3466
07/23/09 AMEND: 1598, 1599
07/06/09 ADOPT: 5199
07/06/09 ADOPT: 5199.1
06/22/09 AMEND: 230.1
06/18/09 ADOPT: 9792.23.1, 9792.23.2, 9792.23.3, 9792.23.4, 9792.23.5, 9792.23.6, 9792.23.7, 9792.23.8, 9792.23.9, 9792.24, 9792.24.1, 9792.24.2, 9792.24.3, 9792.25, 9792.26 AMEND: 9792.20, 9792.21, 9792.22, 9792.23

Title 9

09/22/09 ADOPT: 7213.4, 7213.5, 7213.6, 7214.1, 7214.2, 7214.3, 7214.4, 7214.6, 7214.8, 7215.1, 7216.1, 7216.2, 7220.3, 7220.5, 7220.7 AMEND: 7213, 7213.1, 7213.2,

7213.3, 7214, 7215, 7216, 7218, 7220, 7221, 7224, 7225, 7226, 7226.1, 7226.2, 7227, 7227.1, 7227.2 REPEAL: 7219
09/14/09 ADOPT: 4000, 4005
08/04/09 AMEND: 7331
06/29/09 ADOPT: 10700, 10701 AMEND: 10518, 10529 REPEAL: 10532, 10533
06/26/09 ADOPT: 7212.1, 7212.2, 7212.3, 7212.4 AMEND: 7210, 7211, 7212

Title 10
10/06/09 ADOPT: 2728, 2773, 2903 AMEND: 2731, 2848, 2930 REPEAL: 2728, 2755
09/29/09 AMEND: 2699.6625
09/24/09 AMEND: 260.004, 260.017.1, 260.102.14, 260.165, 260.210, 260.211, 260.230.1, 260.236, 260.236.1, 260.237.2, 260.240, 260.241.3 REPEAL: 260.101, 260.103.3, 260.237.1
09/23/09 AMEND: 260.102.8(b), 260.103.6, 260.105.15, 260.113, 260.140.8(b)(4), 260.140.42(e), 260.140.71.2, 260.140.114.1(c), 260.151(a), 260.236(c)(3)(C), 260.608, 1457(d), 1950.122.1, 2020(c), 2030, Note after Subchapter 6 REPEAL: 250.50, 250.51
09/17/09 AMEND: 2699.6805
08/19/09 AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809
08/04/09 ADOPT: 2355.1, 2355.2 AMEND: 2359.4 amended and renumbered to 2355.3, 2359.7 renumbered to 2355.4, 2359.8 renumbered to 2355.5 REPEAL: 2355.1, 2355.2, 2355.3, 2355.4, 2355.5, 2355.6, 2355.7, 2355.8, 2356.1, 2356.2, 2356.3, 2356.4, 2356.5, 2356.6, 2356.7, 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.5, 2359.6
07/29/09 ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55
07/14/09 ADOPT: 2359.8
07/09/09 AMEND: 2797
07/06/09 AMEND: 250.30
06/24/09 AMEND: 2498.4.9
06/24/09 AMEND: 2498.4.9
06/24/09 AMEND: 2498.4.9
06/24/09 AMEND: 2498.4.9
06/01/09 ADOPT: Article 1, 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, Article 2, 2031.7, 2031.8, Article 3, 2031.9, Article 4, 2031.10
06/01/09 ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10
06/01/09 ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10
05/29/09 ADOPT: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507

Title 11
10/14/09 AMEND: 9052(c), 9053(b), 9053(c), 9053(e)(5)(A)4, 9053(e)(10(A), 9053(e)(10)(B), 9054(e)(4), 9057(b), 9059(b), 9059(c), 9059(e)(9)(A), 9059(e)(9)(B), 9060(e)(4)
05/21/09 AMEND: 1005, 1007, 1008

Title 12
10/13/09 ADOPT: 600 REPEAL: 600
09/17/09 ADOPT: 508

Title 13
10/13/09 ADOPT: 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359
09/16/09 ADOPT: 2468, 2468.1, 2486.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9, 2468.10
09/01/09 AMEND: 2222
08/24/09 AMEND: 2193
08/12/09 AMEND: 2020(b)
07/29/09 AMEND: 599
07/17/09 AMEND: 2111, 2112, Appendix A, 2139, 2147, 2440, 2441, 2442, 2443.1, 2443.2, 2443.3, 2444.1, 2444.2, 2445.1, 2445.2, 2446, 2447, 2474, Documents Incorporated by Reference REPEAL: 2448
06/29/09 AMEND: 2702, 2704
06/16/09 AMEND: 1239
06/04/09 ADOPT: 2340, 2341, 2342, 2343, 2344, 2345
05/22/09 ADOPT: 225.38 AMEND: 225.00, 225.03, 225.06, 225.09, 225.21, 225.35, 225.45, 225.48, 225.54, 225.72

Title 13, 17
05/29/09 ADOPT: Title 13: 2299.2, Title 17: 93118.2 AMEND: Title 13: 2299.1, Title 17: 93118

Title 14
10/07/09 AMEND: 122
10/05/09 AMEND: 670.5
09/15/09 AMEND: 502
08/25/09 AMEND: 257, 300, 311, 313

08/24/09 ADOPT: 749.4
07/14/09 AMEND: 124
07/13/09 AMEND: 163
06/23/09 AMEND: 3959(b)(4)
06/23/09 ADOPT: 4351.1 AMEND: 4351
06/16/09 AMEND: 753.5
06/15/09 AMEND: 27.80
06/12/09 AMEND: 265, 353, 360, 361, 362, 363, 364, 555, 708
06/02/09 AMEND: 7.50(b)(91.1)
05/26/09 AMEND: 7.00, 7.50
05/21/09 AMEND: 7.50(b)(178)
05/15/09 AMEND: 790, 818.02, 827.02
05/14/09 ADOPT: 874.2.5 AMEND: 790, 873.1, 873.2, 873.4, 873.5, 873.7, 874.2, 877.2, 877.3 REPEAL: 873.3
05/13/09 AMEND: 25201

Title 15

10/14/09 AMEND: 3045.2
10/06/09 AMEND: 3000, 3173.1, 3176, 3176.3, 3315, 3323
09/29/09 AMEND: 3341.5
08/18/09 ADOPT: 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1857, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, 1892
08/11/09 AMEND: 2253
08/11/09 ADOPT: 3650, 3651, 3652, 3653, 3654 REPEAL: 3652.1
07/28/09 ADOPT: 3077, 3077.1, 3077.2, 3077.3, 3077.4 AMEND: 3000, 3043.6, 3375
06/17/09 ADOPT: 3640, 3730 AMEND: 3500, 3501, 3502, 3600, 3610, 3620, 3625, 3630, 3740
06/17/09 ADOPT: 3099

Title 16

10/08/09 AMEND: 1888
10/07/09 ADOPT: 1399.90, 1399.91, 1399.92, 1399.93, 1399.94, 1399.95, 1399.96, 1399.97, 1399.98, 1399.99 REPEAL: 1399.50, 1399.52
10/05/09 ADOPT: 1399.514
09/16/09 ADOPT: 1950.1 AMEND: 1984
09/16/09 ADOPT: 1399.720, 1399.721, 1399.722, 1399.723, 1399.724, 1399.725
09/08/09 AMEND: 2310
08/24/09 AMEND: 4161
08/11/09 AMEND: 2504.1, 2517.5, 2537, 2540.6, 2564.1, 2575.5, 2590, 2592.6
08/05/09 AMEND: 995
08/05/09 AMEND: 1399.15
08/04/09 ADOPT: 1773.5 AMEND: 1773
07/28/09 AMEND: 4110
07/27/09 AMEND: 4130
07/24/09 AMEND: 1391.10, 1391.12
07/24/09 AMEND: 1387, 1387.6
07/17/09 AMEND: 1999.5
06/26/09 ADOPT: 2611 AMEND: 2606, 2614, 2615, 2616, 2621, 2649 REPEAL: 2612, 2613, 2623
06/26/09 AMEND: 426.51
06/16/09 AMEND: 1524
06/12/09 AMEND: 2021, 2068.5, 2068.6 REPEAL: 2067, 2068
06/03/09 AMEND: 1888
06/02/09 AMEND: 1419, 1419.1, 1419.3
05/20/09 ADOPT: 1815 AMEND: 1886.40

Title 17

09/22/09 AMEND: 2500, 2502, 2505
09/18/09 AMEND: 100500
09/01/09 ADOPT: 95360, 95361, 95362, 95363, 95364, 95365, 95366, 95367, 95368, 95369, 95370
08/19/09 ADOPT: 100081
08/13/09 AMEND: 6500.74, 6500.77
06/18/09 AMEND: 94508, 94509, 94510, 94512, 94513, 94515

Title 18

09/29/09 AMEND: 1620
07/30/09 AMEND: 1668
06/04/09 AMEND: 1532, 1533.1, 1533.2, 1534, 1535
05/21/09 AMEND: 25114

Title 20

08/03/09 AMEND: 1670, 1671, 1672, 1673, 1674, 1675
07/10/09 AMEND: 1601, 1602, 1604, 1605.3, 1606
07/10/09 AMEND: 1601, 1602, 1603, 1604, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608
06/23/09 AMEND: 3.1, 3.2, 4.3, 8.6, 10.3, 11.3, 13.2
06/04/09 AMEND: 1.4, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 2.3, 2.6, 3.2, 3.6, 8.1, 8.2, 8.3, 11.6, 13.9, 14.2, 14.3, 14.6, 15.2, 17.3, 17.4, 18.1

Title 21

10/06/09 ADOPT: 1412.1, 1412.2, 1412.3, 1412.4, 1412.5, 1412.6, 1412.7, 1412.8, 1412.9
09/16/09 ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711
06/22/09 ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711
05/14/09 AMEND: 1554, 1556

Title 22

08/31/09 ADOPT: 2706–7
07/31/09 AMEND: 80001, 85002 and 85068.4
07/23/09 AMEND: 120201
07/22/09 AMEND: 51529
07/20/09 AMEND: 68201, 68202, 68205, 68206, 68207, 68208, 68209, 68210, 68211, and Appendix 1 to Article 1 of Chapter 47
07/13/09 AMEND: 66273.3, 66273.39
06/17/09 AMEND: 926–3, 926–4, 926–5
05/21/09 AMEND: 2601–1

Title 23

10/06/09 AMEND: 3939.2
09/30/09 ADOPT: 570, 571, 572, 573, 574, 575, 576
09/30/09 AMEND: 3939.2
09/16/09 ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37
09/15/09 ADOPT: 2910.1
09/15/09 ADOPT: 3989.9
09/10/09 ADOPT: 490.1, 492.1, 492.2, 492.3, 492.4, 492.5, 492.6, 492.7, 492.8, 492.9, 492.10, 492.11, 492.12, 492.13, 492.14, 492.15, 492.16, 492.17, 493.1, 493.2 AMEND: 490, 491, 492, 493, 494 REPEAL: 495
08/05/09 ADOPT: 3959.2
07/09/09 ADOPT: 3959.3
06/25/09 ADOPT: 3989.8
06/16/09 ADOPT: 3939.36
06/01/09 ADOPT: 2631.2
05/14/09 ADOPT: 2920

Title 25

09/17/09 AMEND: 637
09/17/09 AMEND: 1008
09/08/09 ADOPT: 7980, 7980.1, 7982, 7982.1, 7982.2, 7982.3, 7982.4, 7983, 7983.1, 7983.2, 7983.3, 7983.4, 7983.5, 7984, 7984.1, 7984.2
08/19/09 ADOPT: 4200, 4202, 4204, 4205, 4206, 4208, 4210, 4212, 4214, 4216
05/22/09 ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216
05/20/09 AMEND: 8217
05/13/09 ADOPT: 6932 REPEAL: 6932

Title 27

07/23/09 AMEND: 25204

Title MPP

09/22/09 AMEND: 40–107, 42–213, 89–130
08/31/09 ADOPT: 31–021 AMEND: 31–003, 31–410, 31–501
07/06/09 ADOPT: 31–003, 31–502 AMEND: 31–002
06/29/09 AMEND: 11–425, 22–001, 22–003, 22–009, 45–302, 45–303, 45–304, 45–305, 45–306